

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

In the Matter of the Adoption
of Local Bankruptcy Rules

GENERAL ORDER NO. 01-03

FILED

SEP 26 2001

CLERK
U.S. BANKRUPTCY COURT
By _____
DEPUTY CLERK

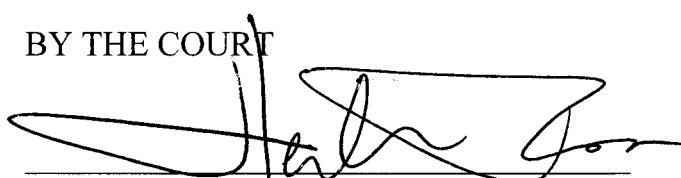
ORDER ADOPTING LOCAL BANKRUPTCY RULE
5005-2, AS AMENDED

In accordance with the September 13, 2001, order of the United States District Court granting this court authority to amend local bankruptcy rules and forms, and in light of comments received from members of the bankruptcy bar in this district,

IT IS ORDERED that Local Bankruptcy Rule 5005-2, adopted by general order entered September 21, 2001 [General Order No. 01-02], is amended. The provision requiring attorneys who have electronically filed declarations, affidavits or other verified documents to retain the originals of those documents for a period of five years is deleted. Rule 5005-2 is amended by the revision of subsection (c)(3) and the addition of subsection (c)(4), which provides that the originals of verified documents which are electronically filed must be submitted to, and will be retained by, the Clerk of Court. With this amendment, AK LBR 5005-2 is hereby adopted, effective October 1, 2001. A copy of the amended rule is attached as Ex. A.

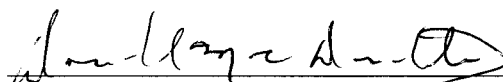
DATED: September 26, 2001.

BY THE COURT



HERBERT A. ROSS

United States Bankruptcy Judge



DONALD MacDONALD IV

Chief United States Bankruptcy Judge

Serve: W. Wolfe, Clerk of Court
C. Davidson, Librarian
Ray (for distribution)
T. Yerbich, Esq.

RULE 5005-2

ELECTRONIC CASE FILING

(a) Procedures.

The filing of documents in electronic format will be in accordance with this rule and the electronic filing procedures promulgated by the Clerk of the Court. Participants in the Electronic Case Filing ("ECF") System are responsible for ensuring that current filing procedures are followed.

(b) Registration of Attorneys.

(1) *Registration.* Each attorney admitted to practice before the court, including those attorneys who have been admitted *pro hac vice* under AK LBR 2090-1(b), is entitled to one ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the ECF System. An attorney may become registered to participate in the ECF System upon completion of training and submission of an Attorney Certification for CM/ECF form to the court.

(2) *Consent to Electronic Notice.* Participation in the ECF System by receipt of a password from the Court, constitutes a request for service and notice electronically under Rule 9036, Federal Rules of Bankruptcy Procedure. Participants in the ECF System, by receiving a password from the court, agree to receive notice and service by electronic means in each case in which they have formally appeared as a party or attorney for a party.

(3) *Unauthorized Use of Passwords.* No attorney/participant may knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized employee of his/her law firm. No person may knowingly utilize or cause another person to utilize the password of a registered attorney unless the person is an authorized employee of the law firm.

(4) *Compromised Password.* Each participant in the ECF System is responsible for maintaining the integrity of his/her password. In the event a participant has reason to believe that the password issued to the participant has been compromised or otherwise may be subject to use by an unauthorized person, the participant must immediately cancel the existing password and issue a new password. The participant must also promptly notify the Clerk of the Court in writing of the change.

(5) *Withdrawal.* A participant may withdraw from participation in the ECF System by providing the Clerk of Court with written notice of withdrawal. Upon receipt, the Office of the Clerk will immediately cancel the participant's password and delete the participant from any applicable electronic service list.

(c) Signatures.

(1) *Attorney.* The electronic filing of a petition, pleading, motion or other paper by an attorney who is a registered participant in the ECF System constitutes the signature of that attorney under Rule 9011, Federal Rules of Bankruptcy Procedure.

(2) *Debtors.* For all petitions, lists, schedules and statements requiring the signature of the debtor(s) that are filed electronically, a Declaration Re: Electronic Filing, AK LBF 37, must be prepared by the participant, bearing the original signatures of the debtor(s) and their attorney. The declaration constitutes the debtor(s) original signatures for filing purposes. The original declaration must be conventionally filed with the Bankruptcy Court within fifteen (15) days of the date the petition is electronically filed.

(3) *Other Documents.* Unless the pleading or paper being electronically filed is an imaged (scanned) document bearing a digital copy of the original signature, it must indicate that it has been signed by means of a signature designation: *e.g.*, "/s/ Jane Doe."

(4) *Verified Documents.* Verified documents (affidavits or declarations under penalty of perjury as provided in 28 U.S.C. § 1746), are to be filed electronically. Unless the verification of the document is being made by the attorney who is electronically filing it (use of his password constitutes his signature), the original verified document must be hand delivered or placed in the mail to the clerk's office within one business day of the date of electronic filing, with a copy of the Notice of Electronic Filing for that document attached. The clerk will retain the original document in the permanent records of the court.

(d) Electronic Filing.

(1) *Mandatory Electronic Filing.* Except as expressly otherwise provided in this Rule or in exceptional circumstances that prevent a participant from filing electronically, all petitions, motions, pleadings, memoranda of law, or other documents required to be filed with the court in connection with a case assigned to the ECF System must be electronically filed by participants in the ECF System. Parties and attorneys who are not participants in the ECF System will continue to file all pleadings and papers conventionally.

(2) *Related Documents.* All documents must be filed separately, except that exhibits to a document must be filed as attachments to that document under the same docket number. Where documents related to a motion or other pleading are being filed concurrently with the motion or other pleading, *e.g.*, a motion, memorandum of law and a supporting affidavit, the related documents must be filed separately and shown as being a document related to the motion or other pleading. If documents being submitted electronically have lengthy exhibits, the filing of relevant excerpts of the exhibits is preferred and permitted without prejudice to the right of any party to file additional excerpts or the complete exhibit with the court at any time.

(3) *Emergency Motions.* Emergency motions, supporting pleadings and objections are to be filed electronically as provided in this rule. The party filing the motion must promptly advise the judge's law clerk or secretary of the filing telephonically.

(4) *Proposed Orders, Findings and Judgments.* Unless otherwise ordered by the court, participants in the ECF System must submit all proposed orders, findings of fact and conclusions of law and judgments electronically, in accordance with the CM/ECF Administrative Procedures Guide. A participant who submits such documents electronically may reduce the number of first class postage stamped envelopes required to be submitted to the court under AK LBR 9021-1(c)(1)(B) for any party entitled to service of the document who is also a participant in the ECF System in the case for which the document is being submitted.

(5) *Calendar Requests.* Unless otherwise ordered by the court, participants in the ECF System must submit all Bankruptcy Court Calendar Requests, AK LBF 7, electronically, in accordance with the CM/ECF Administrative Procedures Guide. A participant who submits a calendar request electronically is not required to submit self addressed, stamped envelopes to the court as required by AK LBF 9075-1(c)(1).

(e) Service.

The filing party must serve the pleading or other paper being electronically filed upon all persons entitled to notice or service in accordance with otherwise applicable rules. If a person entitled to notice or service is a registered participant in the ECF System in the case in which the pleading or other paper is being filed, service by electronic means of the Notice of Electronic Filing is deemed the equivalent of service of the pleading or other paper by first class mail, postage prepaid. Notwithstanding the foregoing, service of a summons and complaint filed in an adversary proceeding or an involuntary bankruptcy proceeding shall continue to be made pursuant to Fed. R. Bankr. P. 7004.

(f) Docketing.

(1) *Entry on Docket.* The electronic filing of a pleading or other paper in accordance with ECF System Procedures constitutes entry of that pleading or other paper on the docket kept by the clerk under Rule 5003, Federal Rule of Bankruptcy Procedure.

(2) *Notice to Filing Party.* Whenever a pleading or other paper is filed electronically in accordance with ECF System Procedures, the System will automatically generate a "Notice of Electronic Filing" by electronic means at the time of docketing.

(3) *Entry of Orders and Judgments.* The Office of the Clerk will enter all orders, decrees, judgments, and proceedings of the court in accordance with ECF System Procedures, which constitutes entry of the order, decree, judgment, or proceeding on the docket kept by the clerk under Rule 9021, Federal Rules of Bankruptcy Procedure. On all orders submitted electronically, the Office of the Clerk will place the notation "**FILED ON**_____" on the first page of the order, and

will insert the date that the order is entered on the docket. The date so inserted will be the equivalent of the conventional "date filed" stamp for all purposes.

(4) *Titles.* The person electronically filing a pleading or other document will be responsible for designating a title for the document by using one of the categories contained in the ECF System.

(g) Documents not to be Filed Electronically.

The following documents are to be filed conventionally and not electronically unless specifically authorized by the court:

(1) *Documents to be Filed under Seal.* A motion to file document(s) under seal is to be filed electronically; however, the actual document(s) to be filed under seal must be filed conventionally. A paper copy of the motion to file document(s) under seal or, if the motion has been granted, a paper copy of the order authorizing the document(s) to be filed under seal, must be attached to the document(s) to be filed under seal at the time the documents are delivered to the Office of the Clerk.

(2) *Exhibits to Pleadings.* Wherever possible, documents being filed as exhibits, including but not limited to leases, notes, and the like, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the exhibit using Portable Document Format (PDF). Exhibits that are not available in electronic form are to be filed conventionally, attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the exhibit(s) relate.

(3) *Proofs of Claim.* Proofs of Claim and all supporting documents are to be filed conventionally.

(4) *Summons to be Issued by the Clerk.* All summons to be issued by the Clerk are to be filed conventionally.

(5) *Trial and Hearing Exhibits.* Exhibit lists, to the extent that the filing thereof is otherwise required by applicable rules of bankruptcy procedure, are to be filed electronically. However, the actual exhibits are to be submitted conventionally in accordance with otherwise applicable rules of bankruptcy procedure.

(6) *Transcripts.* Whenever possible, transcripts, or the relevant portions thereof, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the transcript using Portable Document Format (PDF). Transcripts that are not available in electronic form are to be filed conventionally, attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the transcript(s) relate.

(7) *Report of Balloting.* The certification of balloting, with original ballots attached, which must be filed pursuant to AK LBR 3018-1, must be filed conventionally.

(8) *Service of Conventionally Filed Documents.* Pleadings or other documents filed conventionally pursuant to this subsection must be served in the manner provided for in, and on those parties entitled to notice in accordance with, the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules except as otherwise provided by order of the court.

(h) Fees.

Unless other arrangements are made with the Clerk of Court, any required fee for a document filed electronically must be mailed to the Clerk of the Court not later than the next business day or hand delivered to the Clerk of the Court not later than the second business day next immediately following the electronic filing.

(i) Copies and Certified Copies.

Conventional copies and certified copies of electronically filed documents may be obtained at the Office of the Clerk, 605 West Fourth Avenue, Room 138, Anchorage, Alaska 99501-2296. A fee for copying and certification will be charged and collected in accordance with 28 U.S.C. § 1930.

(j) Technical Failures.

If a participant in the ECF System is unable to transmit a time-critical document for electronic filing, due to technical failure of either the ECF System or the participant's system, or due to Internet congestion or Internet service provider problems, the participant must promptly contact the Clerk of the Court and make arrangements for conventional filing of the document. Unless exceptional circumstances exist which prevent the document from being transmitted during regular business hours, as defined in AK LBR 5003-1(d), the participant must make every effort to transmit any time-critical document during such regular business hours on the date the document is due.

(k) Consequences for Noncompliance.

(1) *Effect of Failure to Make Payment.* In the event of nonpayment of the fee for filing a petition, the petition may be dismissed by the court after a hearing on shortened time of not less than five (5) days notice. In all other matters, if the required fee is not paid as provided in subsection (h) above, the motion or application for which the fee is required will be deemed withdrawn by the party making the motion or application and, except as may be otherwise ordered by the court for cause, no further proceedings on the motion or application will take place. Notice of the deemed withdrawal will be given electronically by the Clerk of the Court to all interested parties in the case who have requested notice by electronic means. The party who filed the motion or application must, no later than two business days thereafter, give notice of the deemed withdrawal to all parties in interest to whom notice of the motion or application was given.

(2) *Effect of Failure to File Declaration Re: Electronic Filing.* In the event that a participant fails to timely file the Declaration Re: Electronic Filing, AK LBR 37, as provided in

subsection (c)(2) above, the petition may be dismissed by the court after a hearing on shortened time of not less than five (5) days notice.

(3) *Other Consequences.* In addition to the foregoing, any misuse of the ECF System, or intentional noncompliance with its requirements, may result in revocation of the participant's login and password privileges and/or the imposition of sanctions as provided in District of Alaska Local Rule 1.3.